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Inc., Moody Holdings, Inc., and Jennifer Moody

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

ARACELY MEZA ROCHIN,

Plaintiff,

vs.

**RESOURCE STAFFING SERVICES, INC.,
MOODY HOLDINGS, INC., and
JENNIFER MOODY**

Defendants.

Case No. 3:23-cv-01650-AR

STIPULATED MOTION TO REMAND

Pursuant to 28 U.S.C. § 1447(c), Resource Staffing Services, Inc., Moody Holdings, Inc. and Jennifer Moody (collectively “Defendants”) move the Court for an Order remanding this action back to the Multnomah County Circuit Court. Remand is proper because this Court lacks subject matter jurisdiction pursuant to 28 U.S.C. 1441(b)(2).

This motion has been reviewed and agreed to by Michael Ross, counsel for Aracely Meza Rochin (“Plaintiff”), and is supported by the following Memorandum of Points and Authorities

and the Court Record, incorporated by reference.

MEMORANDUM OF POINTS AND AUTHORITIES

On October 6, 2023, Plaintiff commenced a civil action in Multnomah County Circuit Court against Defendants titled “*Aracely Meza Rochin v. Resource Staffing Services, Inc., Moody Holdings, Inc., and Jennifer Moody*,” Multnomah County Circuit Court Case No. 23CV40913 (“Action”). Defendants timely removed the Action to this Court on November 9, 2023, on the diversity of citizenship of the parties. ECF 1.

If a district court lacks subject matter jurisdiction over a removed action, it has the duty to remand it, for “removal is permissible only where original jurisdiction exists at the time of removal or at the time of the entry of final judgment” *Lexecon, Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 43 (1998). Indeed, “[f]ederal jurisdiction must be rejected, and the case remanded to state court, ‘if there is any doubt as to the right of removal in the first instance.’” *Garduno v. Nat’l Bank of Arizona*, 738 F. Supp. 2d 1004, 1007-07 (D. Ariz. 2010) (quoting *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992), citing 28 U.S.C. § 1447(c)).

Here, although the parties are diverse, 28 U.S.C. 1441(b)(2) provides that “[a] civil action otherwise removable solely on the basis of the jurisdiction under Section 1332(a) ... may not be removed if any of the parties in interest properly joined and served as Defendants is a citizen of the State in which such action is brought.” Because Plaintiff brought the Action in Oregon, where Defendants reside, the parties stipulate that this Court lacks subject matter jurisdiction.

Accordingly, the Parties respectfully request the Court remand this action to the Multnomah County Circuit Court, without fees or costs to either party.

RESPECTFULLY SUBMITTED this 10th day of November, 2023.

LITTLER MENDELSON, P.C.

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